IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIRST DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 12858 of 2003

Between:

S.V.G.Ravi Kumar, S/o. Appa Rao, R/o.Pedabodepally Village,

Narsipatnam, Visakhapatnam District.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, Rep. by its Secretary,
Education Department, Secretariat, Hyderabad.
2 The Commissioner & Director of School Education,
Hyderabad, Andhra Pradesh.
3 The District Educational Officer, Visakhapatnam.
4 The Principal, The District Institute of Education and Training,
Bheemunipatnam, Visakhapatnam.
5 The Convenor Diet Course, for the academic year 2003-2004.
O/o.The Commissioner and Director of School Education, Hyderabad,
Andhra Pradesh.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondents 3 and 4 in not allotting one seat in DED course for the academic year 2003-04 as per G.O.17 dt.8-1-99 as illegal and arbitrary and against the Art. 14 of the constitution of India and consequently direct the respondents 3 and 4 to allot one seat in D.Ed. in favour of the petitioner in the academic year 2003-04.

Counsel for the Petitioner:MR.V.V.N.NARAYANA RAO

Counsel for the Respondent Nos.1 to 5: G.P. FOR SCHOOL EDUCATION.

The Court made the following :

ORDER:

The petitioner seeks a Writ of mandamus declaring the action of the respondents 3 and 4-District Educational Officer, Visakhapatnam and Principal, District Institute of Education and Training, Bhemunipatnam, Visakhapatnam in not allotting one seat to him in D.Ed. Course for the academic year 2003-04 as per G.O.Ms.No.17 Education (Prog.II.2), dated 08.01.1999 as illegal and arbitrary and to direct the respondents to allot one seat.

This Court by order, dated 02.07.2003 directed the respondents to reserve one seat in the D.Ed Course for the academic year 2003-04.

According to the petitioner, the Mandal Education Officer appointed him as Vidya Volunteer, Nathavaram vide his proceedings dated 10.12.1998 and as such he was continuing as Vidya Volunteer till date. It is stated that the petitioner is a graduate in Bachelor of Science and working as Vidya Volunteer at Mandal Parishad Primary School, Kotha Yellavaram. It is stated that as per the G.O.Ms.No.17 Education (Prog.II.2), dated 08.01.1998 issued by the Government certain incentives were given to Vidya Volunteers by reserving 15% of seats in the District Institute of Education and Training (for short 'the DIET') irrespective of appearing for the entrance examination. The petitioner made a representation to consider his case within 15% of the seats in the DIET earmarked for Vidya Volunteers as he has satisfactorily completed three years of service in the School and also not only passed Board of Intermediate but also passed graduation in Bachelor of Science.

But the case of the petitioner has not been considered and therefore, he has filed the present Writ Petition.

After filing the Writ Petition and after obtaining the interim orders on 02.07.2003, the Government amended the said G.O.Ms.No.17 Education (Prog.II.2),, dated 08.01.1998 by issuing G.O.Ms.No.33, School Education (Prog.II-2), Department, dated 28.02.2004 deleting paragraph-IX of the G.O.Ms.No.17 Education (Prog.II.2), dated 08.01.1998. Paragraph-IX of the said G.O.Ms.No.17 Education (Prog.II.2), dated-01.01.1998 reads as follows:

*"**PARA- IX: INCENTIVES FOR VIDYA VOLUNTEERS:***

i. *15% of the seats in the District Institute for Educational Training (DIETs) shall be earmarked for the Vidya Volunteers provided that they have satisfactorily completed 3 years of the contractual service in the School, and have passed intermediate Board Exam.*

ii. *A further 5 years relaxation of age shall be accorded over the existing age limits prescribed for entry to DIETs.*

iii. *The Vidya Volunteers coming up for admission to DIETs shall be exempted from passing the Entrance Examination to T.T.C.*

iv. *They shall however be admitted to DIET as per the entitlement points earned by them based on the following criteria (a) Service (b) Enrolment (c) Retention (d) Over all improvement (e) performance of students*
(f) Additional qualification. (Points were fixed for each category)."

But the 15% of the seats earmarked for Vidya Volunteers have been deleted and therefore, it is stated that the petitioner is not entitled for admission into Two Years Course in DIET.

The learned Counsel appearing for the petitioner submits that admittedly as on the date of the application of the petitioner, the petitioner is entitled for admission in two years D.Ed. Course for the year 2003-04 and the deletion of Paragraph IX of G.O.Ms.No.17 Education (Prog.II.2), dated 08.01.1998 was

only came into force with effect from the date of issuance of G.O.Ms.No.33, dated 28.02.2004. Further, it is brought to my notice that in the similar facts and circumstances of the situation, one Pulagam Keshavulu filed W.P.No.13822 of 2003 seeking a direction to implement the said Paragaph-IX of G.O.Ms.No.17 Education (Prog.II.2), dated 08.01.1998 by providing a seat to him and this Court disposed of the said Writ Petition directing the respondents to consider his case in terms of the said G.O. and accordingly a seat was provided to the said Pulagam Keshavulu who was a writ petitioner in W.P.No.13822 of 2003. It is evident from the proceedings Rc.No.6/A3/2003, dated 08.03.2004 of the State Convenor, DIET-CET, 2003, A.P. Hyderabad wherein the Principal, DIET, Angalur was directed to admit the candidate in the course as per orders of this Court either in the year 2003-04 or 2004-05.

The petitioner submits that he is also entitled for the same relief on par with the petitioner in W.P.No.13822 of 2003. Such amendment deleting paragraph IX of G.O.Ms.No.17 Education (Prog.II.2), dated 08.01.1998 by G.O.Ms.No.33, dated 28.02.2004 cannot have any retrospective effect and the petitioner is entitled to be considered for providing a seat in two years course in DIET. Therefore, I am of the opinion that taking away the incentives given to the Vidya Volunteers will come into force with effect from the date of issuance of G.O.Ms.No.33, dated 28.02.2004. But, admittedly, the petitioner is entitled for the incentives as provided in Paragraph-IX of the said G.O.Ms.No.17 Education (Prog.II.2), dated 08.01.1998 for the academic year 2003-04. But, the respondents have not provided a seat *in spite* of interim direction dated 02.07.2004 passed by this Court to reserve one seat in the D.Ed. Course for the academic year 2003-04.

Accordingly, the respondents are directed to consider the case of the petitioner by admitting him in the first year D.Ed. Course either in the year 2003-04 or 2004-05 at his convenience and pass appropriate orders within two weeks from the date of receipt of a copy of this order.

The Writ Petition is allowed accordingly. There shall be no order as to costs.

V. ESWARAIAH, J

Dated:21-03-2005

Ccm

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Twenty first day of March, Two Thousand and Five.

ASSISTANT REGISTRAR

To:

1 The Secretary,The Government of Andhra Pradesh,
Education Department, Secretariat, Hyderabad.
2 The Commissioner & Director of School Education,
Hyderabad, Andhra Pradesh.
3 The District Educational Officer, Visakhapatnam.
4 The Principal, The District Institute of Education and Training,
Bheemunipatnam, Visakhapatnam.
5 The Convenor Diet Course, for the academic year 2003-2004.
O/o.The Commissioner and Director of School Education, Hyderabad,
Andhra Pradesh.

6 Two CCs to the G.P. for School Education, High Court Buildings,

A.P.Hyderabad.(OUT)

7 Two CD copies.